

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

BENONI AMPONSAH, RONALD  
BROOKS, BRUCE CASE, HENRY  
COOPER, PEDRO DAVILA, ALBERT  
EXUM, DOMINIQUE FENNELL, CODY  
GARDINO, JAMES GLADDEN, JODI  
HODGES, ANTHONY JELKS, AMEER  
LAWTON, CHARLES MCWILLIAMS,  
MICKONEN MICKAEL, KERRY PAGE,  
DEREK PEGUES, HERU TCHAAS,  
CALVIN WILLIAMS, COURTNEY  
GAYLE, JOSE ISTURIZ, WINSTON TEW,  
and OLBIN VELEZ,

Plaintiffs,

v.

DIRECTV, INC., DIRECTV, LLC,  
MASTEC NORTH AMERICA, and  
MULTIBAND CORP.,

Defendants.

Case No. 1:14-cv-03314-ODE

JURY TRIAL DEMANDED

**DEFENDANT MULTIBAND CORP.'S MOTION TO  
DISMISS THE COMPLAINT AGAINST MULTIBAND**

Defendant Multiband Corp. ("Multiband") hereby moves, pursuant to Fed. R. Civ. P. 12(b)(6), to dismiss the Complaint as against Multiband. Of the 22 Plaintiffs in this case, **only one**, Calvin Williams, purports to bring any claims

against Multiband. However, under the standard two-year FLSA statute of limitations, Mr. Williams' claims against Multiband are time-barred and must be dismissed (leaving no claims against Multiband and requiring its dismissal from the case). There are insufficient facts in the Complaint to support a three-year statutory period or equitable tolling. Also, the relation-back doctrine does not save his claims.

Even if certain claims made by Mr. Williams are not time-barred, his Complaint must still be dismissed in its entirety for failure to state a plausible claim against Multiband because Mr. Williams fails to identify any direct employer, and does not allege sufficient facts in support of a joint employer relationship for Multiband.

The basis for the Motion is further explained in the attached Memorandum of Law, which is incorporated herein.

Dated: January 20, 2015

**Respectfully submitted,**

*s/ Adam Keating, Esq.*

G.A. Bar No. 202672

Attorneys for Multiband Corp.

DUANE MORRIS LLP

1075 Peachtree Street NE, Suite 2000

Atlanta, GA 30309-3929

Telephone: 404-253-6916

Email: [AKeating@duanemorris.com](mailto:AKeating@duanemorris.com)

Michael Tiliakos (pro hac pending)

N.Y. Bar No. 028791996

Natalie Hrubos (pro hac pending)

P.A. Bar No. 307255

1540 Broadway

New York, N.Y. 10036-4086

Telephone: (212) 692-1045

Email: [MTiliakos@duanemorris.com](mailto:MTiliakos@duanemorris.com)

[NFHrubos@duanemorris.com](mailto:NFHrubos@duanemorris.com)

**CERTIFICATE OF COMPLIANCE**

Pursuant to Local Rule 7.1(D), I hereby certify that the foregoing has been prepared in compliance with Local Rule 5.1 (B) and (C), using 14-point Times New Roman font.

/s/ Adam C. Keating  
Adam C. Keating

**CERTIFICATE OF SERVICE**

I, Adam C. Keating, hereby certify that, on this date, I caused the foregoing document to be filed electronically with this Court, where it is available for viewing and downloading from the Court's ECF system, and that such electronic filing automatically generates a Notice of Electronic Filing constituting service of the filed document, upon interested parties.

/s/ Adam C. Keating  
Adam C. Keating

Dated: January 20, 2015